IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7347 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT ELECTRICITY BOARD

Versus

BABUBHAI K MANGARA

Appearance:

MR SP HASURKAR for Petitioners

MR JT TRIVEDI for Respondent No. 1

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 19/09/2000

ORAL JUDGEMENT

#. The petitioner challenges the award of the Labour Court, Jamnagar, in Reference No.LCJ 2050 of 1990 whereby the respondent is ordered to be reinstated with 25% back wages.

#. The Learned Counsel for the petitioner has reiterated the plea that the respondent was appointed on a daily wage basis and he had worked only for 119 days according to the Muster roll produced before the Labour Court. It is, therefore, submitted that the termination of service of respondent was not in violation of Sec.25F and hence the impugned award is required to be quashed.

#. The Labour Court has, after appreciating the evidence led by both the sides arrived at the finding of the fact that the employees junior to the respondent were continued in service and despite the specific call for the record relating to the presence of the respondent during the years 1985 to 1987, the complete records were not produced before the Labour Court. On the basis of such records as were produced before the Labour Court it was submitted that the respondent had worked for 119 days during the period of 7 months at the end of which he was discharged on the ground of having no work. After appreciation of evidence, the Labour Court has come to the conclusion that the relevant and full particulars of presence of respondent were suppressed and the petitioner had failed to prove its plea that the respondent had not completed 240 days of service. In view of such findings, it was held that the termination of service of the respondent was in violation of provisions of Sec.25F of the I.D.Act. However, in view of the fact that the respondent was self employed and on the presumption that a skilled person like respondent could not have remained totally unemployed. The back wages are denied back wages to the extent of 75% in the impugned award.

#. No reasons or ground is made out to interfere either with the findings of fact or the resultant order. The Learned Counsel for the petitioner has relied upon the judgment of this Court reported in 2000(1) GLR p.6377 to submit that in the case of an employee appointed for a fixed period on a purely temporary basis and if his services were terminated after completion of the project, an order of reinstatement would not be justified even if the term of appointment were extended from time to time.

The ratio of this judgment has no application in the facts of this case because no term of fixed period is shown to have ever been stipulated in the contract of service between the parties. Therefore, the petition having no substance it is dismissed. Rule is discharged. Interim relief stands vacated with no order as to costs.

(D. H. WAGHELA, J.)

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